

32602

SERVICE DATE – APRIL 26, 2002

SURFACE TRANSPORTATION BOARD

WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

DOCKET NO. AB-55 (Sub-No. 606X)

CSX Transportation, Inc. - Abandonment Exemption - in Allegheny County, PA

BACKGROUND

In this proceeding, CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 for CSXT to abandon a portion of line in Allegheny County, Pennsylvania (PA). The portion of rail line proposed for abandonment spans approximately 2.1 miles from Milepost BFH 0.0 to Milepost BFH 2.1 in the City of Pittsburgh, PA. A map depicting the rail line in relationship to the area served is appended to this report. If the notice becomes effective, CSXT would be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way (ROW).

DESCRIPTION OF THE LINE

The rail line is located adjacent to the north bank of the Allegheny River within the City of Pittsburgh in southwestern PA. According to CSXT, there are currently no rail patrons or rail traffic on the subject line. The last customer on the rail line - H.J. Heinz Company (Heinz) - recently closed its facility. Prior to closing of this facility, CSXT handled 11 carloads in 1999, 3 carloads in 2000, and 1 carload in 2001 for Heinz. The principal commodities shipped were food products. Heinz notified CSXT in September 2001 that it intended to discontinue rail shipping and CSXT is not aware of any other future freight business that may develop on the line.

The width of the ROW ranges from 18 to 30 feet from the centerline of the track. The ROW was originally acquired between 1887 and 1892 by the Pittsburgh and Western Railroad Company, and came under the control of CSXT in 1987 following an extended series of railroad mergers, acquisitions and consolidations. The ROW may be subject to reversionary interests if abandonment occurs. Land use in the vicinity of the rail line is industrial, and there are two road crossings on the line. The City of Pittsburgh has expressed an interest in establishing a recreational trail along the segment of line proposed for abandonment.

The crossties and other track material and debris would be transported away from the ROW. The removal contractor would be required to minimize soil disturbance during abandonment activities.

ENVIRONMENTAL REVIEW

The applicant submitted an environmental report and historical report that indicate that the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities. The applicants served these reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

The U.S. Department of Agriculture, Natural Resources Conservation Service has stated that prime agricultural land is not present in the immediate vicinity of the rail line. Wetlands are not known to be located within the ROW and the rail line is not located within the State of Pennsylvania's designated Coastal Zone Management area.

The City of Pittsburgh, Department of Planning has stated that the rail line is located in the 100-year floodplain, but does not expect the floodplain to be adversely impacted by the proposed abandonment.

The U.S. Fish and Wildlife Service has stated that Federally-listed or proposed threatened or endangered species are not known to be present in the rail line area.

CSXT has stated that there are no CSXT-owned structures on the rail line proposed for abandonment that are eligible for the National Register of Historic Places. However, the PA Bureau of Historic Preservation (the State Historic Preservation Office or SHPO) has indicated that the subject rail line was determined to be eligible for the National Register of Historic Places. The SHPO's October 31, 2001 database of "National Register/Listed and Eligible Properties in PA" indicates that this listing occurred in 1997.

In that agency's review response (SHPO Reference No. ER 01-0915-003-A), the SHPO states that the removal of crossties and rails may not adversely affect the resource, but it believes that the transfer of the ROW to others, such as reversion of the ROW to adjacent landowners without protective covenants, would result in adverse effects. However, the Board does not have the authority to require a railroad to place a restrictive covenant upon a deed as a condition to obtaining abandonment authority, or to require a railroad to sell a ROW for any purpose other than continued rail use. See the Board's revised environmental regulations to implement the National Environmental Policy Act, National Historic Preservation Act, and other laws in Implementation of Env'tl. Laws, 7 I.C.C.2d 807 (1991), codified at 49 CFR 1105. Nor can the Board deny abandonment solely on the ground that it would adversely affect an historic resource. The imposition of a restrictive covenant or a forced sale would constitute an unauthorized taking of property under the Fifth Amendment to the U.S. Constitution. As a practical matter, documentation of the rail line before it is abandoned is the only

form of nonconsensual mitigation available to the Board. Therefore, we recommend a condition to address this concern.

CONDITIONS

We recommend that the following environmental condition be placed on any decision granting abandonment authority:

1. CSXT shall retain its interest in and take no steps to alter the historic integrity of the ROW until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f. The applicant shall consult with the SHPO to determine the appropriate level of documentation to be completed on the segment of rail line proposed for abandonment.

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, abandonment of the line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and, therefore, no change in operations), discontinuance of service without abandonment and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

If abandonment and salvage of the rail line does take place, the ROW may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Surface Transportation Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Surface Transportation Board, with a copy to the railroad, within 20 days of publication of the notice of exemption in the Federal Register. However, the Board will accept late-filed requests as long as it retains jurisdiction to do so. This request must comply with the Board's rules for use of ROWs as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at 202-565-1592 or mail inquiries to the Surface Transportation Board, Office of Public Services, Washington, DC 20423.

ENVIRONMENTAL COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Vernon A. Williams, Office of the Secretary, Washington, DC 20423, to the attention of David Navecky, who prepared this environmental assessment. **Please refer to Docket No. AB-55 (Sub-No. 606X) in all correspondence addressed to the Board. Questions regarding this environmental assessment should be referred to David Navecky at 202-565-1593 (naveckyd@stb.dot.gov).**

Recent events involving a principal postal facility within Washington, D.C. may affect for a period of time the receipt of materials mailed to the Board, as well as customer receipt of reply mail sent from the Board. Until the timely delivery of mail has been reestablished, the Section of Environmental Analysis (SEA) requests that individuals filing comments regarding this or other environmental assessments take the following additional steps to ensure receipt of their correspondence during the comment period:

1. Telephone or e-mail the environmental contact indicated above prior to the close of the comment period and inform them that you have mailed a comment.
2. If the comment has not been received, the environmental contact will discuss alternative modes of delivery.
3. Retain a copy of your comment for your records should alternative modes of delivery be necessary.

SEA is committed to carrying out its duties to the public and regrets any inconvenience these new procedures may cause.

Date made available to the public: April 26, 2002.

Comment due date: **May 24, 2002**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment

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AB-55 (Sub-No. 606X)

U. S. DEPT. OF THE INTERIOR
QUADRANGLE GEOLOGICAL SURVEY

PITTSBURGH EAST QUADRANGLE
Pittsburgh East - Allegheny County
1993
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